

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER STEVEN JONES,
Plaintiff,

v.

**ERIE COUNTY PRISON,
Defendant.**

C.A. No. 21-315 Erie

District Judge Susan Paradise Baxter
Magistrate Judge Richard A. Lanzillo

MEMORANDUM ORDER

Plaintiff Christopher Steven Jones, an inmate incarcerated at the Erie County Prison in Erie, Pennsylvania, initiated this action on November 12, 2021, by filing a *pro se* civil rights complaint [ECF No. 1] without paying the filing fee or filing a motion to proceed *in forma pauperis* (“ifp motion”). Plaintiff subsequently filed an ifp motion on December 6, 2021 [ECF No. 5]. The complaint alleges that an “extraction team” at Erie County Prison used excessive force on two occasions in September 2021 while removing him from his cell to take a shower, causing him to suffer injuries. (ECF No. 1, at ¶¶ 1-5). This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Because Plaintiff's complaint failed to identify a viable Defendant responsible for his alleged injuries, Judge Lanzillo issued an Order on April 1, 2022, requiring Plaintiff to file an amended complaint to correct the noted deficiencies on or before May 1, 2022 [ECF No. 7]. Plaintiff failed to comply with this Order.

On July 11, 2022, Judge Lanzillo issued a report and recommendation (“R&R”) recommending that Plaintiff’s ifp motion be granted and that this action be dismissed as legally frivolous for failure to state a claim upon which relief may be granted, in accordance with 28 U.S.C. § 1915(e), and also for failure to prosecute [ECF No. 8]. In particular, Judge Lanzillo found that Plaintiff failed to identify a viable Defendant because the only named Defendant, Erie County Prison, is not amenable to suit under 42 U.S.C. § 1983. (*Id.* at pp. 3-4). In addition, the Magistrate Judge noted that Plaintiff failed to comply with his Order to amend the complaint to correct these deficiencies. No timely objections to the R&R have been filed by Plaintiff.

After *de novo* review of the complaint, together with the report and recommendation, the following order is entered:

AND NOW, this 1st day of August, 2022;

IT IS HEREBY ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued July 11, 2022 [ECF No. 8], is adopted as the opinion of the Court, Plaintiff’s ifp motion [ECF No. 5] is GRANTED, and this action is DISMISSED as frivolous, pursuant to 28 U.S.C. § 1915(e), based on Plaintiff’s failure to state a claim upon which relief may be granted, and, in the alternative, is DISMISSED for Plaintiff’s failure to prosecute. Since the defects identified by the Magistrate Judge have not been corrected by amendment in compliance with the Court’s Order of April 1, 2022 [ECF No. 7], such dismissal is with prejudice. The Clerk is directed to mark this case “CLOSED.”


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge

all parties of record